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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,858	01/10/2005	Yoshihiro Nakami	MIPFP133	4445
25920 7590 09/17/2007 MARTINE PENILLA & GENCARELLA, LLP 710 LAKEWAY DRIVE SUITE 200 SUNNYVALE, CA 94085			EXAMINER HSU, AMY R	
			ART UNIT 2622	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/520,858

Applicant(s)

NAKAMI, YOSHIHIRO

Examiner

Amy Hsu

Art Unit

2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 8/9/2006 and 8/8/2006.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1,5, 9-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Masao et al. (US 7042603).

Regarding Claim 1, Masao teaches an image processing apparatus (*Col 1 Lines 63-67*) for processing an image data using an image file, the image file including the image data and image processing control information to be used for processing the image data, the apparatus comprises: an automatic picture quality adjuster (*Fig. 3 reference number 301*) configured to automatically regulate lightness of the image data (*Fig. 5 reference number S105 and Col 13 Lines 9-11*) according to lightness of a

whole image expressed by the image data (*Col 13 Lines 33-35 teach that the image data includes information on brightness and Col 13 Lines 8-12 teach that the brightness is adjusted accordingly, see also Figs. 5 and 6*); and an adjustment degree determiner configured to determine a degree of the auto adjustment based on the image processing control information (*Col 13 Lines 33-35 teach that based on the data in the image data, the brightness is adjusted. The amount or the degree that the brightness is changed is determined by information within the "multivalued" image data taken in by the control device*).

Regarding Claim 5, Masao teaches an image processing apparatus (*Col 1 Lines 63-67*) for processing an image data using an image file, the image file including the image data and image processing control information to be used for processing the image data, the apparatus comprises: an automatic picture quality adjuster configured to automatically adjust lightness of the image data according to lightness of a whole image expressed by the image data in one of a plurality of adjustment modes (*Fig. 6 teaches that picture quality is adjusted, S203 correcting brightness, according to inputted image data, Fig. 5 S104 which precedes S105, or the start of Fig. 6, in one of a plurality of modes, Fig. 6 S201*); and an adjustment mode selector configured to select one of the plurality of adjustment modes (*Fig. 6 S201*) according to the image processing control information (*input at step S104 of Fig. 5*); wherein the plurality of adjustment modes include a plurality of adjustment modes having a difference in a degree of lightness adjustment (*The plurality of adjustment modes selected at S201 of*

Fig. 6 follow a different flow path around the brightness correction step, S203, and therefore have a differing degree of lightness adjustment).

Regarding Claim 9, Masao teaches an image output apparatus (*Fig. 3 reference number 304*) for outputting image data in response to an image file, the image file including the image data and image processing control information to be used for image processing of the image data, the image output method comprising: the image processing apparatus in accordance with any one of claims 1 through 8; and an output unit configured to output an image in response to the image-processed image data (*Col 12 Line 37-38*).

Claim 10 is a method claim with procedure enabling the limitations of Claim 1 and is therefore similarly rejected.

Claim 11 is a method claim with procedure enabling the limitations of Claim 5 and is therefore similarly rejected.

Claim 12 is a computer-readable recording media, the media storing a computer program for causing a computer to process an image data with limitations similar to those addressed with Claim 1 and is therefore similarly rejected.

Claim 13 is a computer-readable recording media, the media storing a computer program for causing a computer to process an image data with limitations similar to those addressed with Claim 5 and is therefore similarly rejected.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-4, and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohta (US 7158183).

5.

Regarding Claim 2, Masao teaches the image processing apparatus in accordance with claim 1, wherein, the image processing control information includes information relating to brightness (*Col 13 Lines 33-35*) but does not teach this information includes light metering information, and specific details of handling the light metering information.

Ohta teaches an image capturing device with information processing capability which meters light (*Col 1 Lines 9-10*) and the control circuit (*Fig. 8 reference number 807*) receives information for which method of light metering is used for photographing of the image data (*Col 11 Lines 17-19*), the specific metering method measuring light

only in a specified field of view that is a part of the image (*Col 11 Lines 45-50 teaches how the user has the option to select an area for detection*); and the adjustment degree determiner is configured to reduce the degree of the auto adjustment when the light metering information shows that the specific metering method is used for the photographing (*The amount of adjustment is affected by the method of metering input to from Fig. 8 reference number 808 to the control circuit, 807, which in turn controls the adjustment by controlling the lens drivers, 810 and 809*).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teaching of Masao with that of Ohta because it is well known that image capturing devices measure light and adjust brightness accordingly as taught by Ohta. It would have been obvious to combine this well known feature in the system of Masao which focuses more on post-processing, in order to affect the next image about to be captured based on the previous image captured.

Regarding Claim 3, Masao in view of Ohta teach the image processing apparatus in accordance with claim 2, and Ohta further teaches the light metering information represents a selected one among a plurality of metering methods including averaged metering (*Col 2 Lines 45-46*), center-weighted metering (*Col 11 Lines 18-19*), and spot metering (*Col 2 Lines 45-46*). Although Ohta does not specifically mention other well known methods of metering such as multi-spot metering, divisional light metering, and partial light metering, it would have been obvious to one of ordinary skill in the art to modify the teaching of Masao in view of Ohta to add other well known methods of light

metering since the yielded results would be predictable, and would not change the scope of the inventive concept.

Regarding Claim 4, Masao teaches the image processing apparatus in accordance with claim 3, wherein, the adjustment degree determiner provides a user with a user interface to allow the user to select the degree of the auto adjustment (*Col 12 Lines 29-35*) but fails to teach this occurs when the image processing control information indicates the center-weighted metering.

Ohta teaches an input button to select center-weighted metering (*Col 11 Lines 17-19*), and also teaches other details regarding automatic exposure adjustment that can be input at the same time. Therefore Ohta teaches that when center-weighted measuring is indicated to the image processing control, the user can also select other details to affect auto adjustment.

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teaching of Masao with that of Ohta to allow the user to input selections for auto adjustment as Masao teaches at the time when center weighted measuring is also selected as taught by Ohta because one of ordinary skill in the art recognizes that with center weighted metering, it is well known for the apparatus to allow the user to adjust the weight or balance of the central portion since the composition of each image is different, what is defined as the center portion will vary so metering can be done more accurately by allowing the user to change controls during center weighted metering.

Claim 6 is rejected similarly to Claim 2, where the adjustment mode selector of Claim 6 is similar to the adjustment degree determiner of Claim 2.

Claim 7 is rejected similarly to Claim 3.

Claim 8 is rejected similarly to Claim 4, where the adjustment mode selector of Claim 8 is similar to the adjustment degree determiner of Claim 4.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure including Maeda (US 5872643), Amano et al. (US 5937218), Uchino et al. (US 20020008771), Nomura (US 6373993), and Nisimura (US 5513018).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy Hsu whose telephone number is 571-270-3012.

The examiner can normally be reached on M-F 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lin Ye can be reached on 571-272-7372. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2622

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Amy Hsu
Examiner
Art Unit 2622

ARH 9/12/07

A handwritten signature in black ink, appearing to read 'Lin Ye', with a stylized flourish at the end.

LIN YE
SUPERVISORY PATENT EXAMINER